IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE B.PRAKASH RAO
AND
THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 27087 OF 2005

Dated: 4th July, 2006

Between:

R.Narayan Reddy

Petitioner

AND

The Superintendant,
Prohibition & Excise,
Medak District at Sangareddy and two others.

Respondents

JUDGMENT:
(Per the Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri A.Sanjeev Kumar, learned counsel appearing on behalf of the petitioner and the Learned Government Pleader for Services II for the respondents and at their request the writ petition itself has been taken up for hearing.

The order repatriating the petitioner from the Prohibition & Excise Department to his parent department i.e., the Co-operative Department was the subject matter of challenge before the A.P. Administrative Tribunal. Though initially an interim order was passed, subsequently on a vacate stay petition being filed the Tribunal, by order dated 6.12.2005, dismissed the O.A. The Tribunal however held that the petitioner was entitled for a posting by the parent department and could join duty within the period, in accordance with the rules from the date of issuance of the posting orders and that he shall be entitled to count the said period from 31.10.2005 as compulsory wait for posting orders.

Aggrieved by the order of the A.P.A.T, in O.A.No.7287 of 2005 dated 6.12.2005, the petitioner approached this Court. This Court, by order in W.P.M.P.No.34800 of 2005 dated 28.12.2005, suspended the order of the

Tribunal in O.A.7287 of 2005 dated 6.12.2005. The writ petition was dismissed for default on 21.4.2006 and was subsequently restored to file on 27.6.2006. In the interregnum the petitioner joined duty.

Sri A.Sanjeev Kumar, learned counsel for the petitioner, submits that while the order of transfer is patently illegal, however in view of the fact that the petitioner has subsequently joined duty on 5.3.2006, it would suffice if the period till the petitioner joined duty was treated as compulsory wait, since the petitioner has been contesting the orders of transfer before the Administrative Tribunal and this Court.

While these are all matters, normally for the authorities to determine and not for this Court to direct, in the peculiar facts and circumstances of the present case wherein the Tribunal had permitted the petitioner to join duty and held that he was entitled to count the period from 31.10.2005 as compulsory wait, and since the respondents in the O.A. have not chosen to challenge the order of the Tribunal before us and in as much as this Court had also passed interim orders of suspension on 28.12.2005, it is but appropriate that the respondents treat the period till 5.3.2006, when the petitioner joined duty, also as compulsory wait.

B.PRAKASH RAO,J

RAMESH RANGANATHAN,J

Date 4-7-2006
MAS.